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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91222842
Party	Defendant The Tradition Lives On LLC
Correspondence Address	THE TRADITION LIVES ON LLC 189 HIGHLAND RD YORK, PA 17403-3812 UNITED STATES ip@dbllawyers.com
Submission	Answer
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Date	12/04/2015
Attachments	Answer.pdf(97561 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**IN THE MATTER OF Trademark Application Serial No. 86/426,016
For the mark THE TRADITION LIVES ON;
Published in the Official Gazette on March 31, 2015**

GREENBRIAR IA, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91222842
)	
THE TRADITION LIVES ON LLC)	
)	
Applicant.)	
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ANSWER AND AFFIRMATIVE DEFENSES

Applicant, The Traditional Lives On LLC, by counsel and pursuant to 37 C.F.R. § 2.106, submits this Answer and Affirmative Defenses to the Notice of Opposition that was filed by Opposer Greenbrier IA, Inc.

1. Applicant admits the allegations in Paragraph 1 of the Notice of Opposition.
2. Applicant admits the allegations in Paragraph 2 of the Notice of Opposition.
3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Notice of Opposition and therefore denies those allegations.
4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Notice of Opposition and therefore denies those allegations.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of the Notice of Opposition and therefore denies those allegations.

6. Applicant admits the allegations in Paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations in Paragraph 7 of the Notice of Opposition.

8. Applicant's responses to Paragraphs 1 through 7 are incorporated herein.

9. Applicant denies the allegations in Paragraph 9 of the Notice of Opposition.

10. Applicant admits that it proposes to use its mark in connection with cloth flags, golf shirts, hooded sweatshirts, and t-shirts. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 10 of the Notice of Opposition and therefore denies those allegations.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 of the Notice of Opposition and therefore denies those allegations.

12. Applicant denies the allegations in Paragraph 12 of the Notice of Opposition.

13. Applicant admits that Opposer has no control over the nature or quality of the Goods with which Applicant plans to use its mark. Applicant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 13 of the Notice of Opposition and therefore denies those allegations.

14. Applicant denies the allegations in Paragraph 14 of the Notice of Opposition.

15. First Affirmative Defense: No Likelihood of Confusion. The parties' goods and services are sufficiently distinct so as to mitigate any potential likelihood of confusion. There is no legal basis for Opposer's contention that Applicant's goods (t-shirts and sweatshirts) are

confusingly similar to Opposer's resort hotel services. Any potential likelihood of confusion is further mitigated by the parties' distinct channels of trade. Any potential likelihood of confusion is also mitigated by the sophistication of the consumers of the parties' goods.

16. Second Affirmative Defense: Abandonment. To the extent that Opposer ever had used the disputed mark in connection with any goods or services that are similar or related to the goods listed in Applicant's Application Serial No. 86/426,016 (which Applicant does not concede), Opposer has abandoned any such use with no intent to resume use. Indeed, even Opposer's use of the disputed mark in connection with its resort hotel services appears to be merely a nominal use that is not source identifying.

17. Third Affirmative Defense: Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

Respectfully submitted,

THE TRADITION LIVES ON LLC,
By counsel,

Dated: December 4, 2015

/David Ludwig/
David Ludwig
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CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2015, a true and complete copy of the foregoing was served via ESTTA and First Class mail, postage prepaid, to the following:

Mary Baril
McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219-3916

/David Ludwig/
David Ludwig